IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3393 OF 2005

IN

WRIT PETITION NO.1224 OF 2004

NIKITA KAILAS DARADE
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Date: 2024.11.27 10:29:09 +0530

Chatrapati Shivaji Shikshan Mandal, Vaduj .....Petitioner

Vs.

The State of Maharashtra and Ors. ....Respondents

Mr. Rajaram V. Bansode a/w Ms. Sheetal Ubale for the Applicant.

Mr. Nilesh Desai, for Respondent No.5.

Mr. Prashant P. Raul a/w S. P. Kadam for the Respondent in CA and for Petitioner in WP/4890/2003.

Ms. T. J. Kapre, AGP for the State.

CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.

DATE : 22nd NOVEMBER, 2024

P.C. :-

1. The learned Advocate for the Petitioner, submits that the Interim Application has been filed for seeking modification of the directions set out in paragraph Nos. 6 and 7 of the order dated 17th August, 2004.

2. We have considered the submissions for the learned Advocate for the respective sides. When the order of this Court dated 17th August, 2004 was passed, the government had extended the salary grants only to one post of Assistant Teacher which was occupied by Respondent No.5. The Management chose to appoint Respondent No.6, on a post which was not covered by the salary grants. As such, it is beyond debate that the Management has to pay the salary of such an employee. Hence, the conclusions of this Court in the order dated 17th August, 2004 are well placed.

3. The contention of the Management is that subsequently, Respondent No.5 was absorbed in another school. The post occupied by Respondent No.6 was covered under the salary grants which were earlier extended only for the post occupied by Respondent No.5. Therefore, it is submitted that this Court may at least observe that if the salary grants are extended to the post occupied by Respondent No.6, from the date such grants are made available, either partially or fully, the burden of the Management would be reduced proportionately to the extent to which the grants are made available.

4. We do not find that there is any reason to modify the order since the contention of the Management is automatically effective. There can be no debate that until the salary grants are extended by the government, to a particular post, the Management has to pay the salary. As and when the salary grants are extended, either in percentages or fully, the burden of the Management in paying the salary from its coffers, would be proportionately reduced. Once 100% grants are available to a particular post, the obligation of the Management in paying the salary of the said employees is redeemed.

5. In view of the above, if the situation has so occurred, that the post occupied by Respondent No.6 was subsequently brought under the salary grants and if salary grants were being extended to the said post, proportionately, the burden of the management, would reduce to the extent of the grants.

6. With these observations, **this Civil Application is disposed off.**

(ASHWIN D. BHOBE, J.) **(RAVINDRA V. GHUGE, J.)**